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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,053	04/18/2005	Dieter Hoffmeier	5067-67PUS	1011
27799 7590 07/17/2007 COHEN, PONTANI, LIEBERMAN & PAVANE 551 FIFTH AVENUE SUITE 1210 NEW YORK, NY 10176			EXAMINER WEINSTEIN, LEONARD J	
			ART UNIT 3746	PAPER NUMBER
			MAIL DATE 07/17/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/526,053

Applicant(s)

HOFFMEIER, DIETER

Examiner

Leonard J. Weinstein

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/28/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed February, 28 2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 11, 13-14, 17-18, and 20 rejected under 35 U.S.C. 102(a) as being Broussard by US 2003/0010691 A1. Broussard teaches all the limitations as claimed for a pump including: a housing 23 for a pumping device 24, the housing 23 having a housing wall 22a constructed as a filter 22c through which water can flow into the housing 23, a first outlet 26 through which water can be pumped out of the housing 23, and at least one additional filter element 9 which is detachably mounted to the housing 23, via element 6a; a housing 23 having a longitudinal axis, and said wall 22a being parallel to said longitudinal axis, as shown in figure 13; a wall 22a comprises a pair of filter surfaces 22c, as defined by the sections of an outer surface of element 22a disposed between each instance of element 6a and each section composed of a plurality of element 22c, which are symmetric to the longitudinal axis; a pump 24 having a housing 23 and additional filter elements 9, being hinged, via element 6a, to the upper side, as defined by a

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top hemispherical section of the element 23 with element 24 being orientated in a direction perpendicular to that as shown in figures 11-12, of a housing 23; a pump 24 having additional filter elements 9 each provided with an outside filter surface 10a and an inside filter surface 11, as shown in figure 3; a housing 223 further comprising a suction connection 31a, the fountain pump 24 further comprising a filter connector 78, in communication with elements 6a via element 74, which can be connected to said suction connection 31a by a hose 31, said at least one additional filter element 9 being connected to said filter connector 78, via element 74; and a filter connector 78 has a control element 27 for adjusting a waterworks function at the outlet 26.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broussard in view of Young 4,795,570. Broussard teaches all the limitations as discussed for a pump including at least one additional filter element 9 comprising a wing-like filter element 6a which is hinged to a housing 23 over said filter surface 22c; but Broussard fails to teach the following limitation that is taught by Young for a filter element 74 being pivotable from a first position (Young – figure 2) against a filter surface 32 to a second position (Young - figure 3) away from a filter surface 32. It would have been obvious at the time the invention was made to provided a connection allowing a protruding member that attaches a second filter to a

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surface of a first filter within a pump be pivoted into place in order to provide for easy removal of a filter (Young – col. 3 ll. 59-68; col. 4 ll. 1-3).

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Broussard.

Broussard discloses the claimed invention except for a second outlet through which water can be pumped out of the housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide two outlets in order to discharge water from a pump, since such a modification would amount to a mere duplication of parts. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.



### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonard J. Weinstein whose telephone number is 571-272-9961. The examiner can normally be reached on Monday - Thursday 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
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